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2 **LAW OFFICES OF LARRY D. SIMONS**  
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3 Mission Hills, California 91345  
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4 Facsimile: 626.389.5607

5 Attorney for Plaintiff  
Larry D. Simons, Chapter 7 Trustee  
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8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA, RIVERSIDE DIVISION**  
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11 In re  
12 EDWIN LEAHY dba H2O PLUS  
CONSTRUCTION,  
13 Debtor.  
14

Case No. 6:22-bk-10809-SY

Chapter 7

15 LARRY D. SIMONS, Chapter 7 Trustee,  
16 Plaintiff,  
17

Adv. Proc. No. 6:22-ap-\_\_\_\_\_-SY

**COMPLAINT TO AUTHORIZE SALE OF  
PROPERTY OWNED IN PART BY NON-  
DEBTOR**

18 v.

[11 U.S.C. § 363(h)]

19 CYNTHIA LEAHY fka CYNTHIA LYNN, an  
individual,  
20 Defendant.  
21

DATE: TO BE SET BY SUMMONS  
TIME: TO BE SET BY SUMMONS  
PLACE: Courtroom 302  
United States Bankruptcy Court  
3420 Twelfth Street  
Riverside, CA 92501

22 **TO THE HONORABLE SCOTT H. YUN, UNITED STATES BANKRUPTCY**  
23 **JUDGE, THE DEFENDANT, AND HIS COUNSEL OF RECORD, IF ANY:**

24 For his Complaint for Authority to Sell Property Owned, in part, by Non-Debtor (the  
25 "Complaint") against the defendant Cynthia Leahy fka Cynthia Lynn (the "Defendant"), plaintiff  
26 Larry D. Simons, the duly appointed, qualified and acting Chapter 7 Trustee (the "Trustee") for the  
27 estate of the debtor Edwin Leahy dba H2O Plus Construction (the "Debtor") hereby alleges as  
28 follows:

**STATEMENT OF JURISDICTION, PARTIES AND PROCEEDINGS**

1. This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §§ 157(b)(1) and 1334(a), as this is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (N) and (O). Venue properly lies in this judicial district pursuant to 28 U.S.C. § 1409(a), in that the instant proceeding is related to a case under title 11 of the United States Code which is still pending.

2. Plaintiff Larry D. Simons (the "Trustee" or "Plaintiff") is the duly appointed, qualified and acting Chapter 7 Trustee of the bankruptcy estate (the "Estate") created in the instant Chapter 7 bankruptcy case pending in the United States Bankruptcy Court, Central District of California, Riverside Division which is styled In re Edwin Leahy dba H2O Plus Construction, bearing Case No. 6:22-bk-10809-SY (the "Bankruptcy Case").

3. Debtor Edwin Leahy dba H2O Plus Construction (the "Debtor") initiated this case by filing a voluntary petition for relief under Chapter 7 of the United States Bankruptcy Code on March 4, 2022 (the "Petition Date").

4. Defendant Cynthia Leahy fka Cynthia Lynn (the "Defendant") is an individual residing within the jurisdiction of this Court.

5. Plaintiff is informed and believes and, on that basis, alleges that the Defendant is the ex-spouse of the Debtor.

**ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

6. The instant complaint (the "Complaint") against the Defendant initiates an adversary proceeding in which Plaintiff is seeking authority to sell the Defendant's interest in the improved real property located at 6784 Outpost Road, Joshua Tree, California 92252-2208, Assessor's Parcel Number 0602-101-14 (the "Subject Property").

7. The Subject Property is legally described as follows:

THE SOUTH ½ OF THE SOUTHEAST ¼ OF THE NORTHEAST ¼ OF THE  
SOUTHEAST ¼ OF THE NORTHWEST ¼ OF SECTION 35, TOWNSHIP 1  
NORTH, RANGE 6 EAST, SAN BERNARDINO BASE AND MERIDIAN, IN  
THE COUNTY OF SAN BERNARDINO , STATE OF CALIFORNIA.

1           8.       The Debtor and the Defendant acquired title to the Subject Property via a grant deed  
2 which was recorded in the Official Records of the Recorder's Office of San Bernardino County,  
3 California on April 23, 1999 as Document Number 19990173048 (the "Grant Deed"). A true and  
4 correct copy of the Grant Deed is attached hereto, marked as Exhibit "1" and incorporated herein by  
5 this reference.

6           9.       The Grant Deed reflects title to the Subject Property being held by the Debtor and  
7 the Defendant as "Edwin L. Leahy, An Unmarried Man and Cynthia Lynn., An Unmarried Woman  
8 as Joint Tenants".

9           10.      Plaintiff is informed and believes and, on that basis alleges that the Debtor and  
10 Debtor's bankruptcy estate still own no less than a 50% ownership interest in the Subject Property.

11          11.      The Subject Property is located in the Central District of California.

12          12.      Plaintiff is informed and believes and, on that basis alleges that the Subject Property  
13 is encumbered by a deed of trust in favor of JPMorgan Chase, NA ("Chase") or its successors with  
14 an approximate current balance of \$81,000.00.

15          13.      Plaintiff is informed and believes and, on that basis alleges that the Subject Property  
16 is also encumbered by tax liens in favor of the Internal Revenue Service ("IRS") in second priority  
17 and the Franchise Tax Board ("FTB") in third priority.

18          14.      According to the IRS Proof of Claim (Claim 2-1), the IRS asserts a secured claim in  
19 the amount of approximately \$103,000 due to its tax lien recorded on April 26, 2019.

20          15.      According to the FTB Proof of Claim (Claim 3-1), the FTB asserts a secured claim  
21 in the amount of approximately \$15,500 due to its tax liens recorded on July 9, 2019 and January  
22 20, 2021

23          16.      Plaintiff is informed and believes and, on that basis alleges that the Subject Property  
24 has a current fair market value of approximately \$400,000.00 to \$425,000.00.

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**FIRST CLAIM FOR RELIEF**

**TO OBTAIN APPROVAL FOR SALE OF REAL PROPERTY OWNED,  
IN PART, BY A NON DEBTOR**

**[11 U.S.C. § 363(h)]**

17. Plaintiff realleges each and every allegation contained in paragraphs 1 through 16 of this Complaint and, by reference, incorporates the allegations as though set forth fully herein.

18. Based upon the current value of the Subject Property and the estimated outstanding debt against the Subject Property, and taking into account, estimated costs of sale, the Subject Property has gross equity of about \$170,500 - \$195,500, no less than half of which constitutes property of the Estate.

19. Plaintiff desires to sell both the Estate's interest in the Subject Property together with the remaining interest in the Subject Property of the Defendant.

20. Partition of the Subject Property between the Estate and Defendant is impracticable.

21. The sale of the Estate's undivided interest in the Subject Property would realize significantly less for the Estate than sale of the Subject Property free of the interests of the Defendant.

22. The benefit to the Estate of a sale of the Subject Property free of the interests of Defendant outweighs the detriment, if any, to the Defendant.

23. The Subject Property is not used in the production, transmission, or distribution, for sale, of electric energy or of natural or synthetic gas for heat, light or power.

24. By reason of the foregoing, the Plaintiff may sell the interest of the Defendant in the Subject Property pursuant to 11 U.S.C. Section 363(h).

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1           **WHEREFORE**, Plaintiff respectfully prays for judgment as follows:

- 2           1.       To obtain approval for the sale of the interests of non-Debtor in the Subject Property  
3 pursuant to 11 U.S.C. § 363(h);  
4           2.       For attorney's fees; and  
5           3.       For costs of suit incurred herein; and  
6           4.       For such other and further relief as this Court deems just and proper.

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8 Dated: July 27, 2022

**LAW OFFICES OF LARRY D. SIMONS**

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12 Frank X. Ruggier  
13 Attorney for Larry D. Simons, Chapter 7 Trustee  
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Law Offices of Larry D. Simons  
15545 Devonshire Avenue, Suite 110  
Mission Hills, California 91345  
TEL. 818.672.1778 • FAX 626.389.5607

**EXHIBIT 1**

**RECORDING REQUESTED BY:**

Fidelity National Title  
Escrow No. 80838-SG  
Title Order No. 00518156

**When Recorded Mail Document  
and Tax Statement To:**

Mr. Edwin L. Leahy  
P.O. Box 974  
Lomita, CA 90717

**Doc No. 19990173048**  
**3:00pm 04/23/99**

**Fidelity National A # 606**

1	2	3	4	5	6	7	8	9	10
PG	FEE	APF	GIMS	PH CPY	CRT CPY	ADD RM	PEN FR	PCOR	
2	7	3							
		10	5.13	82.50			6.06	5	
NON ST	LN	SVY	CIT-CO	TRANS TAX	DA	CHRG	EXCH		

APN: 0602-101-14

**GRANT DEED**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

The undersigned grantor(s) declare(s)

Documentary transfer tax is \$82.50

- ☒ computed on full value of property conveyed, or  
☐ computed on full value less value of liens or encumbrances remaining at time of sale,  
☒ Unincorporated Area

**FOR A VALUABLE CONSIDERATION**, receipt of which is hereby acknowledged, Franciska Jazbec, A Single Woman  
hereby **GRANT(S)** to Edwin L. Leahy, An Unmarried Man and Cynthia Lynn, An Unmarried Woman as Joint Tenants

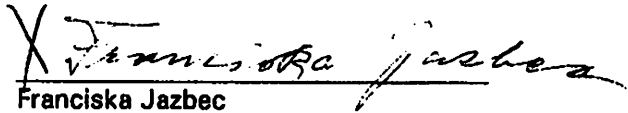
the following described real property in the County of San Bernardino, State of California:

The South 1/2 of the Southeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of the Northwest 1/4 of Section 35,  
Township 1 North, Range 6 East, San Bernardino Base and Meridian.

DATED: March 9, 1999

STATE OF ~~CALIFORNIA~~ SLOVENIA  
COUNTY OF LJUBLJANA

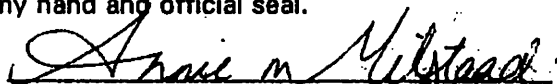
ON 29th March 1999 before me,  
ANNIE M. MILSTEAD personally appeared  
FRANCISKA JAZBEC.

  
Franciska Jazbec

personally known to me (or proved to me on the basis  
of satisfactory evidence) to be the person(s) whose  
name(s) is/are subscribed to the within instrument and  
acknowledged to me that he/she/they executed the  
same in his/her/their authorized capacity(ies), and that  
by his/her/their signature(s) on the instrument the  
person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

Witness my hand and official seal.

Signature



**ANNIE M. MILSTEAD**  
CONSULAR ASSOCIATE

**MAIL TAX STATEMENTS AS DIRECTED ABOVE**

## **EXHIBIT "ONE"**

**The South one-half of the Southeast one-quarter of the Northeast one-quarter of the Southeast one-quarter of the Northwest one-quarter of Section 35, Township 1 North, Range 6 East, San Bernardino Meridian, in the County of San Bernardino, State of California, according to the Official Map thereof.**

**Said land is also shown on the Licensed Land Surveyor's Map recorded in Book 6 of Record Surveys, Page 10, and in Book 5 of Record Surveys Page 53.**